

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.129 OF 2018

Firoj Ismail Shaikh		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Manoj Mohite with Sarang S. Aradhye and Ashish Naik, Milind Prabhune for the Applicant.

Mr. S.H. Yadav, APP for the State.
Mr. S.V. Buwa, API Pandharpur police station.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 22nd February, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 9th December 2016 in Crime No. 797 of 2016 registered at Pandharpur City police station for the offences punishable under Sections 307, 120(B), 452 and 506 read with 34 of Indian Penal Code.

3 It is the case of the prosecution that on 7th December 2016, Shashikant Hari Mule lodged a report at the police station alleging therein that he had taken a shop on rent from one Arun Ausekar and he was residing just behind the shop in an apartment. That Gopal Bajirao Ankushrao and his associates were insisting upon the first informant to part with one of the shop or else they should pay him Rs.5,000/- per month. There was also a threat that in the eventuality he fails to vacate the said shop, they would eliminate him. The complainant had informed his landlord, Mr. Arun Ausekar about the same. Mr. Ausekar had instructed the first informant that they shall not pay single farthing to anybody and that he shall not vacate the shop. On 7th December 2016, in the afternoon when the first informant was at home alongwith his wife, Shrikant Kolar and the present applicant had been to his house. They asked for a glass of water. When the first informant had served them with water, they had informed the first informant that they are the members of gang of Gopal Ankushrao and that they had broke open locks of four shops just a month ago upon instructions of Gopal Ankushrao. There was an altercation between the first informant and the present applicant and Shrikant Kolar. At that time, Shrikant Kolar had assaulted the first informant with Sattur, which he had concealed in the shirt. Soon thereafter the applicant was intending to assault the first informant, however, the wife of the first informant had intervened and had taken the complainant indoors. People had gathered in front of

house of the first informant and thereafter he was taken to the hospital

4 On the basis of the said report, Crime No. 797 of 2016 was registered. Upon perusal of the papers of investigation and more particularly injury certificate, which shows that the first informant had sustained one clean incised wound on the parietal region, which was a grievous injury. It appears from the papers of investigation and the statement of the first informant that Shrikant happens to be author of the said grievous injuries. Learned APP submits that the applicant does not deserve to be enlarged on bail, as he was arrested in Crime No. 382 of 2016, registered at Pandharpur Taluka police station, for the offences punishable under Sections 307, 326, 324, 323, 147, 148, 149 of Indian Penal Code. He was enlarged on bail on 16th June, 2016. That the applicant has no fear of law. Just within six months from the date of being enlarged on bail, the applicant has committed an offence punishable under Section 307 of Indian Penal Code. The applicant is a member of gang of Gopal Ankushrao. It is the matter of record that the investigation is completed and the charge-sheet is filed. The applicant is in custody for more than 1 year i.e. almost 14 months and it is on this ground that the applicant deserves to be enlarged on bail on imposing stringent conditions.

5 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

ORDER

1 The application is allowed and disposed of.

2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

3 The applicant shall not reside in Pandharpur City/ Taluka till framing of charge save and except attend the dates before the trial Court.

(*Smt. Sadhana S. Jadhav, J*)